

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MAXIE MCNABB,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:06cv664-MHT
)	
SANDERS LEAD COMPANY, INC.,)	
)	
Defendant.)	

DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

COMES NOW, Defendant Sanders Lead Company, Inc., by and through the undersigned counsel of record, and moves this Honorable Court to enter summary judgment in Defendant’s favor pursuant to Rule 56 of the *Federal Rules of Civil Procedure* and states no genuine issues of material fact exist and Defendant is entitled to judgment as a matter of law. As grounds therefore, Defendant relies upon the following:

1. Defendant’s Memorandum Brief submitted contemporaneously with this Motion;
2. The affidavit of Edgar Fannin, attached as Exhibit 1 to Defendant’s Brief;
3. Disciplinary Notices/Warnings to Mr. McNabb, attached as Exhibits 2-30 to Defendant’s Brief.
4. The affidavit of Bart Sanders, attached as Exhibit 31 to Defendant’s Brief;
5. The Dismissal and Notice of Rights issued by the EEOC, attached as Exhibit 32 to Defendant’s Brief;
6. The affidavit of Sam Kitchens, attached as Exhibit 33 to Defendant’s Brief;

7. Mr. McNabb's employment eligibility form, attached as Exhibit 34 to Defendant's Brief;
8. A Change of Employee Status showing when Mr. McNabb was hired the first time, attached as Exhibit 35 to Defendant's Brief;
9. A Change of Employee Status showing when Mr. McNabb quit, attached as Exhibit 36 to Defendant's Brief;
10. A Change of Employee Status showing when Mr. McNabb was hired the second time, attached as Exhibit 37 to Defendant's Brief;
11. Any and all pleadings filed in this matter.

The grounds and basis for this Motion are more fully set forth in the accompanying Memorandum Brief in Support of Defendant's Motion for Summary Judgment, which is incorporated by reference into this Motion and filed herewith.

WHEREFORE, PREMISES CONSIDERED, because Plaintiff cannot present sufficient evidence to support his claim for age discrimination, Defendant respectfully requests this Honorable Court grant summary judgment as to each and every claim asserted against Defendant by Plaintiff in this matter.

Respectfully submitted this the 25th day of May, 2007.

s/ N.J. Cervera
N.J. Cervera (CER001)

s/ Frank P. Ralph
Frank P. Ralph (RAL002)

s/ Grady A. Reeves
Grady A. Reeves (REE042)

s/ Matthew M. Baker
Matthew M. Baker (BAK017)

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document by placing the same in the U.S. Mail, postage prepaid and properly addressed to:

Roderick T. Cooks, Esq.
WINSTON COOKS, LLC
The Penick Building
319 17th Street North
Birmingham, Alabama 35203

this the 25th day of May, 2007.

s/ N.J. Cervera

OF COUNSEL